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2024 is the year of elections. Around half of the world population will be voting. The timing is especially significant because, on the evidence of recent elections in countries like the Netherlands, Italy and Argentina, the far-right is in the ascendant, and also because social media – now reinforced by AI – will play a part as never before. Circumstances are suddenly new and rapidly changing.

There is a real prospect that campaigning factions will use big data to disseminate deep fake messages specifically designed to influence individual voters identified according to their particular belief-based echo chambers. To a far greater extent than in the supposed Russian influence on Trump voters in 2016 the potential to manipulate US Presidential or UK Parliamentary outcomes is massively increased and threatens to undermine the concept of democracy as we have known it. There will be no more testing of the acceptable limits to free speech than this. No amount of regulation of big tech companies seems likely to address this challenging problem. One can perhaps hope that the effects of campaigning by disparate political extremists will cancel each other out – but how does democracy work in a world in which it is so hard to believe what one reads or sees?

Similar forces are in evidence in universities. The recent resignation of Claudine Gay, the first person of colour and only the second female President of Harvard, is an event of considerable significance; the implications will only become clearer with time but the immediate message is that an obstreperous politician – exploiting the emotions roused by the Israel-Hamas war – could deny a fair hearing of leading university heads at a Congressional Enquiry and successfully block the world's leading

DEFENDING FREE SPEECH

university's attempt to explain and defend its policies on free speech. In this issue of *Oxford Magazine* Kate O'Regan analyses how free speech – especially in the context of Equality Law, the Prevent duty and concepts of democracy – is defined and defended in this country.

A study by King's College London's Policy Institute in September 2023 reported that 34% of students regarded free speech as “very or

fairly threatened”, compared to 23% in 2019. In the last three years a ‘Director for Freedom of Speech and Academic Freedom’ has been created in the Office for Students, the HE regulator, and the Free Speech Union was founded. The FSU has handled nearly 2,300 cases in that time, 73% of which achieved “favourable outcomes”. What do these developments tell us about universities? Why the need for these recent innovations? Will they work? It can be argued (a) that universities are the locus of the most intense belief-based divisions precisely because academics are strongly committed to their subjects as well as to robust and free debate, and (b) that universities are where ‘solutions’ to current social trends can be studied, understood and addressed, particularly through fostering appropriate skills in their students.

The prospects of endless word-splitting and legal wrangling do not bode well. The Office for Students is now approaching the fourth year in its investigation of the Kathleen Stock case. As the King's study concludes;

“Our research ...highlights the pivotal role of the Director for Freedom of Speech and Academic Freedom. Professor Arif Ahmed of University of Cambridge has now been appointed to this role, and his interpretation of the new Act will be vital to how the legislation is enacted and how the sector reacts. The

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...and much more

new Director will need to recognise how deeply entrenched different identities are in this debate, and navigate very different perspectives on the same realities without being seen as captured by either. The Director will also need to engage carefully with the indistinct boundaries between offence, safety, threat and harm, which will be key to how we move forward on these issues. Carefully navigating these complex issues could provide a real step forward."

Oxford Magazine stands, in our opinion, as a beacon – but also a test-bed – on all these issues for Oxford. Uniquely among universities internationally the magazine has performed the role, for some 140 years, of being a sounding board for often strongly-held minority opinions and beliefs within our academic community. Ideally, it represents the best example of free speech in action. Within the constraints of the law, civilised modes of discourse and editorial discretion, it provides a mechanism for anybody to raise issues and express concerns of interest or importance. But like many in the university world

we do have to self-censor. There have always been topics that the editors have judged too sensitive to mention, particularly at a time when the survival of the magazine cannot be assumed.

As University affairs, policies and administration become vastly more complex – and probably beyond any one person's comprehension – the role of OM becomes more and more essential. It survives, unique among channels of internal communication, as the voice of Congregation and beyond. It welcomes contributions equally from academics, non-academics and students.

Thus OM both tests out and reflects the realities of the present climate in society. It echoes the need to protect and foster free speech under increasingly challenging conditions. As Kate O'Regan concludes, "Finding the right balance will always be a contested project, and will continue to engage us in debate and disagreement."

B.B., T.J.H

How to initiate Congregation actions

How to trigger a debate or discussion in Congregation

It is open to any 20 or more members of Congregation to propose a resolution or topic for discussion at a meeting of Congregation; requests must be made in writing to the Registrar not later than noon on the 22nd day before the relevant meeting. Any 2 or more members of Congregation can submit an amendment to, or announce an intention to vote against, a resolution or a legislative proposal (*i.e.* a proposal to amend the statutes). Notice must be given to the Registrar (in writing) not later than noon on the 8th day before the meeting.

Questions and replies

Any 2 or more members of Congregation may ask a question in Congregation about any matter concerning the policy or the administration of the University. Requests must be submitted to the Registrar (in writing) not later than noon on the 18th day before the Congregation meeting at which it is to be asked. The question and the reply (drafted by Council) will be published in *Gazette* in the week prior to the relevant meeting. The answer is also formally read out at the meeting. Supplementary questions are allowed.

Postal votes

Attendance at meetings of Congregation tends to be low. Postal voting can potentially allow opinion to be easily accessed more widely across Congregation membership. Congregation can trigger a postal vote after a debate (but not after a discussion or a question and reply where no vote is taken). 25 or more members of Congregation have to be present ("on the floor") at the relevant debate. The request must be made by 4pm on the 6th day after the debate, signed by 50 members of Congregation, in writing to the Registrar. Council can also decide to hold a postal ballot, by the same deadline.

Flysheets

To generate a flysheet for publication with the *Gazette*, the camera-ready copy (2 sides maximum) should be submitted with at least 10 signatures on an indemnity form (obtainable from the Registrar) by 10am on the Monday in the week in which publication is desired.

Regulations governing the conduct of business in Congregation can be found at: <http://www.admin.ox.ac.uk/statutes/regulations/529-122.shtml>
Items placed on the agenda for Congregation are published in the *Gazette*.
The Congregation website is at: www.admin.ox.ac.uk/councilsec/governance/congregation.
Advice on Congregation procedures is available from the Council Secretariat on request (email: congregation.meeting@admin.ox.ac.uk).

Debating the Difficult: The Human Right to Receive and Impart Ideas in the 21st Century

KATE O'REGAN

The following is the text of a lecture delivered at Mansfield College on 24th November 2023 as part of its regular termly Public Lecture Series – eds

Freedom of speech has been in the spotlight in Oxford, and the UK higher education sector more widely, this year. In May, the Oxford Union invited Kathleen Stock, the philosopher whose gender-critical scholarship has given rise to controversy, to speak causing a flurry of disagreement and dispute within the University. The Oxford LGBTQ+ Society and the Students Union, both sought to have the invitation withdrawn, and letters were written by groups of academics one in support of and the other decrying the invitation to Dr Stock to address the Union. The first group argued that “Professor Stock believes that biological sex in humans is real and socially salient, a view which until recently would have been so commonplace as to hardly merit asserting” and continued, “whether or not one agrees with Professor Stock’s views, there is no plausible and attractive ideal of academic freedom, or of free speech more generally which would condemn their expression as outside the bounds of permissible discourse.”¹ The second group, writing a few days later, argued that Professor Stock should not be permitted to speak, saying that “we believe that trans students should not be made to debate their existence.” The letter continued, “We also refute that this is a free speech issue – disinviting someone is not preventing them from speaking. Trans students too have a right to voice their disagreement. Oxford students have always vocally expressed their opposition to views they disagree with, and will always continue to do so; protest and activism are an essential Oxford tradition.”² In the event, Dr Stock did deliver her address at the Oxford Union, although there were vigorous protests outside the Union building, and one activist glued themselves to the floor in protest.

A postscript to the controversy is to be found in the Vice-Chancellor’s Annual Oration at the start of the 2023 academic year in which Professor Tracey said that “Free speech has been centre stage this year. I have been clear about our role in the university sector to protect free speech: it is core to how we teach subjects and expose students to different views; and it also goes hand in hand with our commitment to equality, diversity and inclusion. I have publicly acknowledged that this means some legal free speech will be hard for individuals to hear. However, I am also disturbed by what I witness as an amplification of discourteous, intolerant and hateful rhetoric on social media platforms under the guise of free speech. I was deeply saddened to hear of the abusive and threatening language and behaviours that our trans community

suffered this year. We should have done more to support them; rest assured lessons were learned. In this University, I expect more, and we will continue to strive to create a culture of tolerance and respectful disagreement on key issues of the day. That is how we learn together and evolve.”³

The controversy played itself out in the national press, with extensive coverage being given to it in most of the major daily newspapers and on the BBC. And it also played out against the backdrop of the government’s newly enacted Higher Education (Freedom of Speech) Act 2023 which received royal assent on 11 May 2023. This legislation imposes a duty on universities and student unions to protect the freedom of speech of staff, students and visiting speakers. It also creates a statutory tort that will enable anybody who has suffered loss as a result of the university or student union not complying with its duties under the Act to promote that person’s freedom of speech to recover that loss. The Act also provides that the Office for Students may impose a monetary penalty on a students’ union if it fails to comply with its duties under the Act. The Act also establishes a new office, the Director for Freedom of Speech and Academic Freedom, often somewhat ironically referred to as the Free Speech Czar, a post occupied by Cambridge philosophy professor Arif Ahmed, who is tasked with investigating breaches of free speech obligations. The Office for Students itself is a relatively new regulator established in terms of the Higher Education and Research Act 2017. Its purpose is to ensure that students from all backgrounds, especially disadvantage, can access, succeed in and progress from higher education”⁴ but it is also tasked with upholding freedom of speech as one of its core values.

The 2023 legislation joined what Parliament’s Joint Committee on Human Rights (JCHR) described in 2018 as the already “complex” framework in the UK for university governance.⁵ Four pieces of legislation are especially relevant to freedom of speech:

- The Education (No 2) Act 1986 which imposes a duty on universities to secure freedom of speech for its “members, students and employees”.⁶
- The Human Rights Act, 1998, particularly s6 which makes it unlawful for public authorities, including public universities, from acting in a way that is incompatible with a convention right, which would of course include Article 10 of the European Convention on Human Rights (ECHR) which protects freedom of expression.
- The Equality Act, 2010 which requires universities not

to discriminate, directly or indirectly, on the basis of protected characteristics, which include age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity. In addition, the Equality Act imposes an overarching public sector equality duty to pay due regard, amongst other things, to the need to eliminate discrimination, harassment, and victimisation on the basis of protected characteristics.

- And the fourth, what has come to be termed “the prevent duty”, imposed on universities by s26 of the Counter-Terrorism and Security Act 2015 which requires universities to help prevent the risk of people from being drawn into terrorism.⁷ The government’s guidance on the prevent duty states that “when deciding whether or not to host a particular speaker, [a university] should consider carefully whether the views being expressed, or *likely to be expressed*, constitute *extreme views* that risk drawing people into terrorism or *are shared by terrorist groups*. In these circumstances, the event should not be allowed to proceed except where [the university is] *entirely convinced* that such risk *can be fully mitigated*.”⁸ The JCHR itself has expressed concerns about how “extremism” should be defined and noted that a lack of clarity in relation to that definition may result in inappropriate restriction of freedom of speech.⁹

What is clear from the above is that the legislative framework governing the obligations of universities in relation to freedom of speech contains goals that if not conflicting are at least in tension, which makes it challenging to navigate. It was one of those tensions which lay at the heart of the conflict over the invitation to Kathleen Stock -- whether in permitting her to speak to her published work on the gender binary would be harmful to trans people who consider that her position denies their existence. It is important to emphasise here of course that the Oxford Union is not part of the University, but is a private club adjacent to it, which is not bound by the legislative framework that I have outlined. Nevertheless, the tension remains a challenging one for universities to navigate and it is that tension about which I wish to speak this evening.

In approaching the tension between protecting freedom of speech and the need to protect students, staff and others in the University from discrimination and harassment, I will start with a brief overview of how freedom of speech is protected in international human rights law and consider the reasons why we protect freedom of speech, then I will distinguish between academic freedom and freedom of speech and what that distinction means for universities, and I will end with some brief thoughts on the question how we should manage the tension between freedom of speech and the university’s obligation not to discriminate on the basis of protected characteristics as well as the broader public sector equality duty to seek to eliminate discrimination, harassment, and victimisation.

Article 19 of the ICCPR

In international human rights law, freedom of speech or expression is entrenched in the International Covenant of Civil and Political Rights and in article 10 of the ECHR.

The International Covenant is one of the key international agreements that imposes obligations to protect human rights upon the states that accede to them. It came into force in the mid 1970s. 173 states have ratified it, only a handful have not, including Saudi Arabia, Bhutan, the United Arab Emirates, and Myanmar. States who ratify the Covenant have a duty to report to the Human Rights Committee (HRC) regularly that reviews their reports. Some states, too, have agreed to confer a jurisdiction upon the HRC to receive complaints, or communications, from individuals about whether they have complied with their treaty obligations.

Article 19 provides that “everyone has the right to freedom of expression, this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other medium.” It continues to say, however, that the rights in the article carry “special duties and responsibilities” and may be subjected to restriction, but “these shall only be such as are provided by law and are necessary for respect of the rights or reputations of others, and for the protection of national security or of public order (*ordre public*) or of public health or morals.”

There are a few things to note about article 19:

- It protects the right to *seek, receive and impart* information – it is focused not only on the speaker but also the listener, and recognises that the right to receive information and ideas is as important as the right to utter them;
- Secondly it protects information and ideas of all kinds and whether made orally, in writing or in print (with which she should now include digital) – it is *content and medium neutral*;
- Thirdly, it recognises that the right to freedom of expression is not absolute, but may be limited by law, where necessary to do so, for respect of the rights or reputations of others, and to protect national security, or public order, or public health or morals. Freedom of expression may thus *be limited, it is not absolute*.

Article 20, the very next provision in the International Covenant provides that propaganda for war shall be prohibited by law, and that advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

There is a tension, thus between articles 19 and 20, and it is in some ways very akin to the tension that lies at the heart of the UK’s higher educational framework. A tension between protecting free speech on the one hand and prohibiting speech that constitutes incitement to discrimination, hostility, or violence on the other. The ECHR does not contain an equivalent to article 20, and it is important to note that the UK¹⁰ entered a reservation when ratifying the ICCPR relating to article 20(2), which stated that “the UK interprets article 20 consistently with the rights conferred by articles 19 and 21 of the Covenant and having legislated in matters of practical concern in the interests of public order (*ordre public*) reserve[s] the right not to introduce any further legislation.”

In assessing this tension at the heart of human rights law, it is useful to return to what are often described as the three key purposes of the protection of freedom of expres-

sion – the reasons that are commonly given to explain why we should protect freedom of speech.

The first relates to a conception of what it means to be human, and what that implies. The key proposition is that we should respect (and seek to foster) the autonomy and dignity of human beings. The protection of individual autonomy and human dignity requires us to protect the right of all to express themselves freely and their right to have access to the thoughts and ideas of others. Protecting free speech is therefore seen as enabling the self-fulfillment of individual members of a society. This principle underpins our commitment to arguably all forms of expression, including artistic and academic freedom.

The second reason relates to the importance of freedom of speech for democracy. In order for self-government to flourish, for individuals to make good democratic decisions, the argument goes, they need to be able to have open discussions about matters of public importance.¹¹ Some theorists, C Edwin Baker, for example, have persuasively suggested that the first and second types of reason are related, that we value democracy and freedom of expression because we value the autonomy of human beings and their capacity for self-government.¹² Forms of self-government are based on the principle of self-determination and, according to Hans Kelsen, require ‘a running discussion between majority and minority, through free consideration of arguments for and against a certain regulation of a subject matter.’¹³ And by protecting freedom of speech we make this ‘running discussion’ possible.

Ronald Dworkin adopted a similar argument when he argued that ‘it is illegitimate for governments to impose a collective ... decision on dissenting individuals, using the coercive powers of the state, unless that decision has been taken in a manner that respects each individual’s status as a free and equal member of the community.’¹⁴

There can be no doubt that democracies require freedom of speech to be protected to ensure the public discussion that will enable them to work properly. But there is an important caveat that we should note about the principle. The first is that not all speech is part of the democratic project, only some of it is. Perhaps we can use the term, public discourse to describe that speech that needs to be protected for democratic purposes. The corollary is that forms of speech that cannot be classed as ‘public discourse’ cannot draw on the democratic rationale for protection. But we need to accept too that this line is often difficult to draw and drawing it will often give rise to contestation.

The third reason for protecting free speech, even speech with which we disagree, is that it enables us to discover that established truths are in fact false, and it therefore fosters the possibility of new truths. This epistemic claim draws on the work of both J.S. Mill¹⁵ and Milton¹⁶ and is often referred to as Mill’s argument from fallibility. It underpins the proposition that free speech enables ‘a marketplace of ideas’ as articulated in the famous dissent of Judge Holmes in *Abrams v US*. This seminal 1919 decision concerned the constitutionality of a legislative provision which made it a criminal offence effectively to oppose the war against Germany. The defendants were charged with throwing leaflets in New York which denounced the war and they were convicted and sentenced to 10 – 20 years in prison. A 7-2 majority of the US Supreme Court upheld the defendants’ conviction holding that their freedom of speech had not been violated, but Justice Holmes disagreed, and held, (and I paraphrase) that the best test of

truth is its power to get itself accepted in the competition of the market.¹⁷ This dissent was arguably the foundation of First Amendment jurisprudence even though it only came to be law several decades later in the 1950s. It is this principle that informs the argument that the cure for bad speech is more speech.¹⁸

The argument from fallibility has been subjected to powerful critique by contemporary scholars.¹⁹ Frederick Schauer, for example,²⁰ has argued that one of the principal consequences of allowing the expression of falsehoods is that it may increase the number of people who believe in those falsehoods. Mill appears to assume that truth will eventually win out, but as Schauer observes modern social science suggests that the objective truth of a proposition may well not be the most significant factor in determining whether it comes to be accepted as true. And that one cannot therefore be certain that permitting facts that are untrue to be protected by freedom of speech will necessarily assist in the discovery and acceptance of truth.

Goldman and Cox have also cast doubt on the marketplace of ideas metaphor. They argue that the proposition that a blanket protection freedom of speech will create a ‘speech’ marketplace that will ensure that objectively true propositions come to be accepted as true does not hold.²¹ They explain that the classical economic theory of markets suggests that free and competitive markets are the best way to organise the production and consumption of goods. And they provide a range of reasons why this theory cannot simply be replicated in the world of free speech. For example, classical economic theory proposes that what markets will produce is what consumers want, but say, Goldman and Cox, there is no evidence that consumers of speech want truth, or that they want truth alone. Indeed, they also point out that consumers of speech will often look for speech messages that confirm their existing beliefs on the basis of confirmation bias, rather than look for messages that will challenge them.²²

The argument from fallibility may also not be very satisfactory in the current world, where as Timothy Wu has noted we have gone from a situation of speech scarcity, the circumstances in which our laws on free speech, and speech generally developed, to a glut of speech.²³ There are few restrictions on who may speak, and those who do speak have relatively few effective controls on what they say. What is scarce today is not speech, but the attention of listeners. And there are newly developed modes of speech control to match this changed environment, which themselves deploy forms of speech. Troll armies use speech (and social media platforms) to abuse journalists and other speakers; flooding tactics that drown out speech are also evident on social media platforms and are often described as reverse censorship. The consequence is that speech today is used as much to “attack, harass, and silence as much as it is used to illuminate or debate”.²⁴ Wu suggests that in the US, the first amendment, which protects freedom of speech by preventing government from restricting speech save in very narrow circumstances is no longer fit for purpose and that it is necessary to rethink how we protect free speech in a time of speech glut. This is an important question, but beyond the ambit of my remarks this evening.

As an aside, I sometimes wonder whether the apparent generational differences on questions free speech run along lines of those of us who first encountered speech in a time of speech scarcity, through edited newspapers,

television broadcasts and the printed word, and those younger generations who have encountered questions of free speech in a time of speech glut, when so much speech is harassing, silencing, threatening and hurtful. This is an important question, especially in the intergenerational context of a university, but again it is not one I can explore more fully here.

* * *

These then are the rationales that underpin freedom of speech. The first two rationales (that freedom of speech protects individual autonomy and serves democracy) are arguably more cogent in today's communication ecosystem of greater significance than the third (that freedom of speech will enable us to establish truth).

But it is now important to pause and consider the related, but different concept of academic freedom. Academic freedom has a more specific purpose than freedom of speech. As Carolyn Evans and Adrienne Stone have pointed out: academic freedom protects the pursuit and dissemination of knowledge through free enquiry and seeks to ensure that university research and teaching is authoritative and unbiased.²⁵ Freedom of speech and academic freedom are often confused. They are confused first, because universities are places where different activities take place, some of which require the protection of academic freedom and some of which are protected by free speech. Teaching and research are protected by academic freedom, while public events on campus that engage with the political controversies of the day are protected by freedom of speech. Secondly they are confused because they both draw on the rationale of Mill's argument from fallibility, but while that argument is weaker in the modern communications ecosystem, including in relation to political speech, it is arguably at its strongest in relation to academic freedom as I hope to explain.

In a recent essay, Harvard Law Professor, Vicki Jackson, argued that universities (together with the free press, libraries and museums, government statistical offices and perhaps even courts) are knowledge institutions whose guiding purpose is the development and dissemination of knowledge in the world and, she argues, their role is of central importance in modern democracies. She maintains that knowledge institutions have their own disciplinary standards to enable the pursuit of knowledge and the evaluation of knowledge claims.²⁶ And that to thrive these institutions require a degree of institutional independence to develop and apply their disciplinary standards for the pursuit of better knowledge. Jackson recognizes that the pursuit of knowledge is a complex and contested matter, but asserts that one of the tasks of scholarly disciplines is to develop the standards that enable the production of better knowledge. It is this conception of the role of universities which underpins academic freedom: the need to ensure the conditions that facilitate the pursuit of knowledge. In the context of academic freedom, as opposed to freedom of speech, Mill's argument from fallibility, is indeed of profound importance.

Jackson argues that a commitment to objectivity in the pursuit of knowledge entails what she calls 'epistemic humility', a willingness to consider empirical, reasoned challenges to currently accepted forms of knowledge. This willingness should be founded on the realization that knowledge creation requires the permanent acknowl-

edgement of the possibility of revision or future correction. Here we could dive deep into the debate between Karl Popper and Thomas Kuhn as to whether discovery should be motivated by efforts to falsify, or by the development of new theories or paradigms to account for anomalies in observed phenomena,²⁷ but we need not. What needs to be recognized is that if the task of the university is primarily, through research, to develop knowledge, and through teaching, to disseminate and share it, then the disciplinary standards for knowledge creation, and the epistemic humility that such standards require (ie. we might be wrong, we might not be able to establish objective knowledge in this field) need to be cultivated and learned. Like all humility, epistemic humility, does not come naturally to many, and particularly not those who have for much of their life been among the brightest in their peer groups, as so many Oxford students and academics have been.

I would argue that Mill's argument from fallibility is of acute importance for universities and is the paramount underpinning of academic freedom: its role in the university is different to its role in the raucous marketplace of ideas that is the modern communications ecosystem. The argument from fallibility suggests that good ideas will rise above bad. Sadly, they often will not in the modern communications ecosystem. But universities are a special ecosystem, one committed to knowledge production and dissemination, which should be founded on epistemic humility, and committed to the open-minded probing of knowledge within our disciplines, and here, Mill's argument from fallibility has a special place.

Academic freedom is essential to the mission of universities. That mission is not only to develop knowledge but also to share and disseminate it, and to train the next generation of those who will be engaged upon the university's mission. To fulfil the university's mission, we need to nurture a culture of epistemic humility and open-mindedness and to accept that current modes of knowledge may require revision or replacement. When engaged upon research, we need to listen and read and constantly reassess and review. Within the framework of disciplinary standards, all knowledge must be open to debate and challenge, there is very little that may not be said.

I am not suggesting that being open minded is easy. It is not, but it is made easier by the ever-changing generational mix within a university. Diversity – of age, social and class background, gender and gender identity, racial and ethnic background, and I would suggest of academic discipline – fosters open-mindedness even if it can sometimes be uncomfortable.

This brings me back to the University's obligation to prevent discrimination and harassment, on grounds of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity – the protected characteristics of the Equality Act. How do we ensure that we preserve the space for academic freedom that the mission of the University requires, while at the same ensuring that we observe our public sector equality duty to, amongst other things, seek to eliminate discrimination, harassment, and victimisation on the basis of protected characteristics?

Here I think it is important to realise that in all social settings, law only goes so far. Whether it is in the home, or the workplace, or a social club, how we speak is guided by a range of non-legal norms, social rules about what is acceptable speech, including tact, respect for the views

and the feelings of others, the appropriate use of humour and understatement. These norms are not enforced by law, but by social conventions and they are handed on intergenerationally and by mentoring and guidance.

And universities are special social settings. In a recent article, Robert Post, the former Dean of Yale Law School, acknowledged the importance of the social context in which speech occurs. In our daily life, he observed, we know that human speech is not simply about words, but about how we speak. And how we speak varies, and should vary, according to where we are.

Turning to universities, Post recalled Holmes' famous assertion in the *Abrams* case (mentioned above) that "freedom of speech and expression is vital to human beings' search for truth and knowledge about our world". Post suggests that "if we think carefully about this assertion, we can see that it is only a half-truth that obscures *how* we actually talk when we seek to add to the store of human knowledge. When we aspire to new knowledge, we do not merely speak our minds. We speak in ways guided by the norms of persuasive intellectual discourse."²⁸ And he continued, echoing Vicki Jackson, that scholars "try to express themselves in ways that comply with the best possible applicable standards. ... Of course those who seek to acquire new knowledge must be free to criticize received truths. They must be free to speak from their beliefs. But the value of this speech depends on whether it meets accepted scholarly standards."²⁹

There is a way in the context of academic research and teaching (which is of course the domain of academic freedom) that we can accommodate both the essential mission-driven importance of academic freedom and the need to act consistently with our duties under the Equality Act. No accepted scholarly standard accepts speech that is discriminatory, intolerant or hateful. Scholarly speech needs to be directed at the subject matter that is under debate, not at the author or critic of it. Football has a simple way of expressing this principle: play the ball not the person. As in football, there will be times when this simple rule may seem difficult to apply but the principle remains clear.

There can be little doubt that some of us will be uncomfortable about some forms of knowledge that are being explored in a scholarly manner in a university setting and that has always been so. Whether it is the evidence for climate change, the evolution of the species, the biological or socially determined characteristics of racial or ethnic identity, or of sex and gender identity. Challenges to established knowledge, and the defence of it, often threaten existing forms of power, whether political, financial or social, and are likely to give rise to contestation. But universities need, as best they can, to stand firm to permit those scholarly debates to take place because scholars must be able to engage in the considered assessment of existing knowledge, both to defend and challenge it, regardless of how contested or unpopular the pursuit may be. We need to remember, over the long course of history, how many battles have been fought over this principle and to remain true to it.

A recent case in Australia explored how we should balance academic freedom and duties of courtesy and respect imposed by the university through its code of conduct. The case involved Dr Peter Ridd, the head of the Marine Geophysics Laboratory at James Cook University. Ridd attacked, indeed ridiculed, some of the conclusions of

Australia's Greater Barrier Reef Marine Park Authority and Australia's recognised Centre for Excellence for Coral Reef Science in public, including on television, as to the effect of climate change on the Great Barrier Reef, suggesting their research could no longer be trusted.³⁰ In a 2015 email sent to a journalist, for example, Ridd questioned the reliability of the reports prepared by the Marine Park Authority and the Centre, saying "they should check their facts before they spin their story". And said that if pressed, the Marine Parke Authority and the Centre would "wobble and squirm because they actually know that these pictures are likely to be telling a misleading story."³¹ Ridd also appeared on a television programme on Sky News making similar claims.

Ridd was disciplined by the University in terms of its Code of Conduct which required academic staff to act in a collegial and academic spirit and treat fellow academics with respect and courtesy. He was also directed to maintain confidentiality regarding the disciplinary processes, but he did not, instead he made them public on a website and disclosed them to a wide range of people. When his case eventually came before the High Court of Australia, the court held that Ridd's eventual dismissal was lawful, not on the basis that his engagement with colleagues' scholarship had been disrespectful, but because he had breached the duties of confidentiality he owed the University in relation to the disciplinary process. The Court thus held that commentary on scholarly matters which is true or provided in good faith should be protected even if robust and even discourteous. The Court did note however that there was no suggestion on the record that Ridd had harassed, vilified or intimidated his colleagues, which it clearly accepted would move beyond the bounds of legitimate academic speech.

There is one further principle that needs to be recognised, again drawing on Vicki Jackson's work on knowledge institutions (as well as a range of other work on academic freedom) – knowledge institutions must enjoy some degree of institutional autonomy in both developing and applying their scholarly standards. Scholarly standards, and their application, should not be directed from outside the institution. Moreover, where scholarly standards are challenged, Jackson says, "there should be some presumptive respect" for the institutional standards and their application by both courts and regulators.³² Asserting this principle might have seemed self-evident a few decades ago, but as Liora Lazarus, a former colleague here at the Bonavero Institute of Human Rights, has observed there is a worrying range of discrediting techniques used in populist discourse to erode the authority of the university. These techniques are often adopted by populist leaders who devalue complexity and decry expertise and specialist knowledge³³ and often result in policies and legislation that seek to control universities, which may well put academic freedom at risk.

So academic freedom protects the enterprise of research and teaching that is core to a university. The situation is different however with public events on campus. Unless these are presentations of scholarly work, to which academic freedom attaches, these will not generally fall within the domain of academic freedom, but will instead be protected by freedom of speech. And the three rationales underpinning freedom of speech apply: arguments from individual autonomy and dignity, from democracy,

and in my view in an attenuated way Mill's argument from fallibility.

Students and academics, like everyone else, may oppose or support a war, take a position on same sex marriage or any other issues in public discourse. Students and academics are also entitled to make demands and protest about speakers and views with which they disagree. When they do, they are exercising their right to free speech. As Amia Srinivasan argued in a recent issue of the *London Review of Books*: "Arguably, every instance in which students protest against an invitation and the speaker appears anyway is an instance of things going precisely as they should on a free and intellectually diverse campus. No-platforming and calls for cancelled invitations are first and foremost expressive actions. They signal opposition not only to a speaker's views, but very often to the political programme of which they are a part ...".³⁴

We need to be careful not to be distracted by a campaign by some who suggest that calling for speakers to be disinvented or cancelled, or for there to be protests outside the lecture theatre, or heckling or protest within, is somehow a new or worrying phenomenon. It is not. It is part of the process of democratic debate and disagreement. And it is of course robust and often discourteous to the point of rude, as indeed Amber Rudd said when she was disinvented by UNWomen Oxford in 2020. It is not clear to me that this is any more than the cut and thrust of political engagement, which lies at the heart of any democracy. I am not convinced that legislative responses, such as the new Higher Education (Freedom of Speech) Act 2023, are a solution. Indeed, the Act itself is likely to impair freedom of speech. Perhaps the most worrying aspects of the Act is its creation of a statutory tort that allows people who assert that a university or students union that has not complied with its duties under the Act may seek damages from the university or students union and the provision which permits the Office for Students to impose monetary penalties for non-compliance with the statutory duties. Both these provisions may well have free speech consequences.

Which brings me back to the question posed at the beginning of this lecture, how we should navigate the tension between academic freedom and freedom of speech on the one hand and the need to prohibit discrimination on the grounds of protected characteristics, and to observe the university's public sector equality duty on the other. In doing so, there is no doubt that universities need to take steps to prevent discriminatory and harmful speech. Here Jeremy Waldron's work on why it is appropriate to ban harmful speech is of particular value in a university setting. Waldron argues that there is a public good of inclusiveness that we need to protect. This public good recognises that although we may differ on grounds of race, religion, sex, gender and gender identity, we are all nevertheless as he puts it "embarked on a grand experiment of living and working together despite these differences and that each group must remember that society is not just for them but for them along with others."³⁵ He argues that we prohibit hate speech, not because it subjectively offends the targets of hate speech, but because objectively it reduces the status of those targeted by hate speech in the broader society. His approach thus seeks to ensure that we do not permit speech that conflicts with a commitment to the principle that every person is worthy of equal respect.

As Evans and Stone have argued, limiting hate speech

because it undermines the principle of equality of respect is of especial importance in a university setting, in order to ensure that the atmosphere within the University is conducive to the pursuit of knowledge and enables everyone to engage in intellectual debate.³⁶ The University bears responsibilities here to protect students and staff from being attacked on the basis of their religion, race, gender, gender identity or sexuality. We should thus welcome the fact that the Vice-Chancellor acknowledged this responsibility in her Oration at the start of term.

Conclusion

In the course of my remarks this evening, I have sought to distinguish between freedom of speech and academic freedom, and to argue that both are important in universities, but for slightly different reasons. We care about academic freedom because it is core to the mission of universities in engaging in the pursuit of knowledge and in teaching. Academic freedom requires scholars to be able to challenge old orthodoxies and assert new ones. The constraints on the academic project are set by the disciplinary standards themselves, together with a practice of robust but courteous engagement. Freedom of speech on the other hand is important in universities in relation to public discourse and events. It is not unlimited. Universities should not permit speech that is harmful to the principle that all within the university should be treated with equal respect, and we should not permit the denigration of people on the basis of protected characteristics.

Finding the right balance will always be a contested project, and will continue to engage us in debate and disagreement. And we should not expect that that disagreement will end. But that is not a bad thing. For the project of universities is not agreement. It is the cultivation of a culture of open-mindedness and epistemic humility to promote the pursuit of knowledge, the fostering of these values in the next generation of scholars and as Mansfield has sought so hard to achieve over the last few decades, ensuring that access to this scholarly community is not closed to those on the grounds of their social background.

¹ Letter of 16 May 2023, published in *The Daily Telegraph*. Authors included Professor Richard Dawkins, Professor Richard Ekins, Professor John Tasioulas and many others.

² See Letter of 27 May 2023, available online via the *Oxford Student*.

³ Irene Tracey, Oration 2023, available online <https://www.ox.ac.uk/news/2023-10-03-vice-chancellors-oration-2023>

⁴ See OfS Regulatory Framework document: https://www.officeforstudents.org.uk/media/1231efe3-e050-47b2-8e63-c6d99d95144f/regulatory_framework_2022.pdf

⁵ See the report of Parliament's JCHR "Freedom of Speech in Universities" published on 21 March 2018 and available online https://assets.publishing.service.gov.uk/media/64f8498efdc5d10014fce6d1/14.258_HO_Prevent_Duty_Guidance_v5c.pdf

⁶ S 43 of the Education (No 2) Act, 1986 which imposes a duty on universities to have a code of conduct setting out the procedures for meetings and other activities.

- ⁷ See the government guidance on the Prevent Duty: https://assets.publishing.service.gov.uk/media/64f8498efdc5d10014fce6d1/14.258_HO_Prevent_Duty_Guidance_v5c.pdf
- ⁸ See JCHR report, cited above n 63.
- ⁹ Ibid. para 66.
- ¹⁰ The United Kingdom reservation states that the Government of the United Kingdom interprets ‘... article 20 consistently with the rights conferred by articles 19 and 21 of the Covenant and having legislated in matters of practical concern in the interests of public order (*ordre public*) reserve[s] the right not to introduce any further legislation.’ UNTS (n 14). This section of the text draws on O’Regan, ‘*Hate Speech Online: A n (intractable) contemporary challenge?*’ (2018) 17 *Current Legal Problems* 403–429, <https://doi.org/10.1093/clp/cuy012>
- ¹¹ See for example A. Meiklejohn, *Freedom of Speech and its Relation to Self-Government* (Harper and Bros 1948) 26–7; J. Weinstein, ‘Extreme Speech, Public Order and Democracy: Lessons from *The Masses*’ in I. Hare and J. Weinstein (eds), *Extreme Speech and Democracy* (OUP 2009) 26ff.
- ¹² See C.E. Baker, ‘Autonomy and Hate Speech’ in I. Hare and J. Weinstein (eds) (n 21) 139, 146.
- ¹³ Ibid 281.
- ¹⁴ See R. Dworkin, ‘Foreword’ to I. Hare and J. Weinstein (eds) (n 21) vii. See also Dworkin’s ‘Reply to Jeremy Waldron’ in M. Herz and P. Molnar (eds), *The Content and Context of Hate Speech: Rethinking Regulation and Responses* (CUP 2012) 341.
- ¹⁵ See J.S. Mill, *On Liberty* (1859).
- ¹⁶ See J. Milton, *Areopagitica: A Speech for the Liberty of Unlicensed Printing* (1644).
- ¹⁷ 250 US 616, 630 (1919).
- ¹⁸ See F. Schauer, ‘Social Epistemology, Holocaust Denial and the Post-Millian Calculus’ in M. Herz and P. Molnar (eds) (n 25) 129, 131.
- ¹⁹ See, for example, Schauer (n 31) 129; A. Goldman and J. Cox, ‘Speech, Truth and the Free Market for Ideas’ (1996) 2 *Legal Theory* 1; J. Waldron, *The Harm in Hate Speech* (Harvard UP 2012) 155–6; V. Blasi, ‘Holmes and the Marketplace of Ideas’ [2004] *Supreme Court Review* 1; D. Bush, ‘The Marketplace of Ideas: Is Judge Posner chasing Don Quixote’s Windmills?’ (2000) 32 *Arizona State Law Journal* 1107; P. Brietzke, ‘How and Why the Marketplace of Ideas Fails’ (1997) 31 *Valparaiso University Law Review* 951.
- ²⁰ See Schauer (n 31).
- ²¹ See Goldman and Cox (n 32).
- ²² Ibid 31.
- ²³ Timothy Wu, *Is the First Amendment Obsolete?* 1701 *Knight First Amendment Institute* (Sept 1 2017), <https://knightcolumbia.org/content/tim-wu-first-amendment-obsolete>
- ²⁴ Timothy Wu, cited above.
- ²⁵ See Carolyn Evans and Adrienne Stone, *Open Minds: Academic Freedom and Freedom of Speech in Australia* (La Trobe, 2021), 79.
- ²⁶ See Vicki C. Jackson, ‘Knowledge Institutions in Constitutional Democracies: Preliminary Reflections’ (2021) 7 *Canadian Journal of Comparative and Contemporary Law* 156–221.
- ²⁷ See Karl Popper, *The Logic of Scientific Discovery* (Routledge, 2002) and Thomas Kuhn, *The Structure of Scientific Revolutions* (Chicago 1996).
- ²⁸ See Robert Post, ‘The Unfortunate Consequences of a Misguided Free Speech Principle’ *Daedalus*.
- ²⁹ Ibid.
- ³⁰ See Adrienne Stone, ‘The Meaning of Academic Freedom: the Significance of *Ridd v James Cook University*’ 2021 *Sydney LR* 241–258.
- ³¹ Ibid. 244.
- ³² Vicki Jackson, cited above n , 217.
- ³³ Lazarus, ‘Constitutional Scholars as Constitutional Actors’ (2020) 48 *Federal Law Review* 483–496, 485.
- ³⁴ Amia Srinivasan, ‘Cancelled’ 45 (13) *London Review of Books* 29 June 2023.
- ³⁵ See Waldron, *The Harm in Hate Speech* (Harvard 2012), 4.
- ³⁶ See Evans and Stone, cited above n , 117.

Vita nuova

(after Philip Larkin’s ‘As Bad as a Mile’)

Working in the garden, you threw me
a trowel. I caught it, low,
O wonders! Such skill –
Or luck? But still,
an omen, Larkin’s failed throw
reversed, success
growing back up the ageing arm,
the apple core
once more full-fleshed.

JIM REED

Jim Reed is Taylor Professor Emeritus of German and Fellow of Queen’s. From 1985 to 2004 refounding Editor of the *Oxford Magazine*.

Nature-based Solutions, Science & Technology – and Indigenous Wisdom

IVAN FERRAZ

“Moro num país tropical abençoado por Deus E bonito por natureza, mas que beleza”

(I live in a tropical country blessed by God and beautiful by nature, what beauty) ‘País Tropical’ Jorge Ben Jor (JBJ) song.

My journey began during a summer course at University of São Paulo (USP) in January 2020, marked by an epiphany triggered by JBJ’s music as I observed the destruction caused by more than 10 hours of torrential rain that occurred the day before the first day of my course. When I arrived at the USP campus trying to jump over fallen tree branches and dodge the flooding, I realized that nature was strange. This led me to question “natural” disasters and their impact on São Paulo, a city plagued by ecological urbanization issues. That same day the course was cancelled and so were almost all the city’s events, the city of 10 million people entered a chaotic state.

The following month, USP (with its 7 campuses including an advanced climate research center in the Amazon region and almost 100,000 students) went into lockdown because of the Covid-19 pandemic. I had just started my PhD studies and my classes would officially start in February 2020. This whole situation seemed to be a non-coincidence and had led me to question the planetary boundaries and how the greater frequency of extreme weather events was affecting the city of São Paulo.

Situated in the remnants of the Atlantic Forest (today less than 10% remains), the mega city of São Paulo (called “Concrete Jungle”) grapples with anti-ecological urbanization issues, from heat islands to acid rain. USP’s Butantã campus emerges as an ecological oasis with an exuberant nature (temperature on campus is 5°C lower than the average of the city, that has more than 70 microclimates) amidst this chaos, fostering scientific innovation through student-led startups addressing environmental challenges.

The temperature in São Paulo has been on an upward trajectory for the last 90 years. Data from two meteorological stations confirm what many São Paulo residents have been feeling for some years now: the occurrence of extreme weather events in the São Paulo Metropolitan Region has increased greatly over the last two decades. The most striking phenomenon is the increase in the intensity of rainfall. The progression and linkages between these extreme events and warming trend in the city require the adoption of public policies to mitigate it. One of these measures was the enactment of the Municipal Law of 2009, which established the Climate Change Policy for the Municipality of São Paulo, with the aim of encouraging sustainable practices (UNSDGs), including the expansion

and requalification of green areas and open spaces for public use, promoting soil sealing, implementation of urban parks, preservation of springs and streams, decarbonization of the vehicle fleet and increased sustainable urban mobility. We USP students are involved in projects to create indicators for the achievement of these goals, thereby increasing social accountability.

My engagement with the USP community started heading a Democracy Lab (that deals with contemporary global threats as the Climate Change emergency) and extended beyond theoretical discourse, involving collaborations with the Architecture department on sustainable indigenous housing projects (round houses called “Ocas”) and the Nutrition course to explore indigenous sustainable food practices (such as “tapioca”, a healthy and tasty food made from cassava flour), which I call “indigenous technologies”. USP’s commitment to sustainability also encompasses diverse initiatives, from electric bikes powered by solar panels to the distribution of tree seeds for students to plant in their homes, sustainable farming practices and many USP students’ initiatives like green startups incubated at the campus that use sustainable and circular economy practices to convert waste into resources. Interdisciplinary courses on “Climate Change, Sustainable Practices, and Humanities” gain traction, reflecting a growing awareness among students.

This may seem like a micro-action without collective coordination, but from these bottom-up initiatives we are trying to build a polycentric governance.¹ USP professors and students also develop projects that involve green responsible investment and other series of efforts in producing seminars and eBooks of public schools with the climate issue.²

More and more we are becoming aware that destroying the forest not only affects the indigenous peoples of the Amazon region, but also us in São Paulo. We must realize that we can influence the national agenda (USP has a long tradition of forming great leaders: Brazilian presidents, politicians, CEOs, activists, renowned climate researchers etc.) by not electing deputies and politicians that have close connections with companies that destroy the environment and promote deforestation and also put pressure on the financial sector to not give credit to companies that destroy the forest. We have also to combat “Pollution Heaven” practices (the practice of maintaining the R&D activities in developed countries and sending their polluting fabrics to poor and developing countries) and punish severely greenwashing.

Brazil is the country with the largest rainforest in the world: the Amazon Rainforest that is the “Biological Heart of the Planet” (the forest functions by analogy as heart, and not as lungs). We are one of the biggest lead-

ers in renewable energy generation and a global leader in biofuel and waste energy. The Amazon Forest plays an important role in climate stability. Besides, the Amazon Rainforest is the most biodiverse forest on the planet, with an incredible wealth of flora and fauna, as well as all the ecosystem services it generates and the socio-biodiversity products that the people of the forest use as a source of income.

How can deforestation affect São Paulo? The juxtaposition of São Paulo and the Amazon region reveals a stark dichotomy in terms of biomes, geography, climate, and economic drivers. Understanding these differences is pivotal in formulating targeted strategies to address climate challenges. While in São Paulo megacity the main drivers of carbon emissions are energy generation and waste (with the burning of fossil fuels, solid waste, and effluent waste as sub-sectors), the Amazon faces threats to its unique ecosystems due to deforestation (the main source of Green House Gas (GHG) emissions in this region that represents almost half of Brazil's emissions).

Deforestation in the Amazon rainforest can have far-reaching and profound impacts on the city of São Paulo, which is located thousands of kilometers away from the Amazon basin. The consequences of deforestation can affect São Paulo and other regions in several ways: affecting climate, water supply, biodiversity, economy, and social dynamics. Understanding and mitigating these impacts are essential for the sustainable development and well-being of both the Amazon region and urban centers like São Paulo.

To address all these environmental complexities USP professors and PhD students developed a project (in conjunction with the University of Amazonas and funded by Fapesp) to maintain the forest standstill, strength the bioeconomy and create green jobs that deals with the products of the socio-biodiversity in the Amazon, such as açai, cocoa, and babaçu, that represent economic opportunities for local communities. This project encompasses São Paulo's influential market demands that can play a pivotal role in stimulating sustainable practices, ensuring that products adhere to ethical and environmental standards.

Unlike the global pattern (energy consumption accounts for more than 70% of the world's emissions), Brazil's main cause of emissions is Land Use, caused mainly by deforestation. The journey towards a sustainable future requires collective efforts, transcending borders and disciplines. Reducing emissions quickly is necessary, but not sufficient, as GHG, albeit in smaller quantities, will continue to accumulate in the atmosphere for long periods of time. Even with the full implementation of the Paris Agreement given the current pattern of GHG emissions, it is expected that the average global temperature increase by more than 1.5°C compared to pre-industrial levels.

The consequences of this increase in temperature will be catastrophic, leading to a loss of productivity in arable land, a rise in sea levels, an increase in the frequency of both heavy rains and droughts in the region and negative effects to the local economy and people's health. To put the brakes on global warming once and for all, according to the UN IPCC, the world needs to become "carbon neutral" by around 2050 (to stabilize warming at 1.5°C) or 2070 (for the 2°C limit).

"To achieve this, we will have to build a new society, very different from the one we have today; much more

sustainable and with much more economic and social equality," theorizes Artaxo.³ Imagine in the case of the other species that inhabit the Amazon ecosystem, an increase in temperature above the capacity of this ecosystem to function would lead the enzymes that control photosynthesis to lose efficiency and even to the Amazon ecosystem collapsing. And given the stock of carbon that has been stored in this region, this could greatly aggravate Global Warming in the not-too-distant future.

According to Brazilian scientist Carlos Nobre (USP researcher with participation in many UN IPCC reports) if the rate of devastation of the Amazon continues at the same annual average as during President Jair Bolsonaro's term (2018-2022), the "Green Hell", in the next 10 to 20 years the Amazon would reach a tipping point, ceasing to be a rainforest and becoming a kind of degraded Savannah. The south of the Amazon (south of Pará state and north of Minas Gerais state) is already very close to this tipping point, with the dry season already 4 to 5 weeks longer in the last 40 years, 2^o to 3^o C warmer, and tree mortality having increased greatly in recent years, turning the forest from a carbon sink into a carbon source. He also warns that the frequency of pandemics will increase if we humans continue to disturb the natural environment, especially tropical biomes. He explains that most pandemics are caused by zoonoses (viruses and bacteria that have migrated from nature to some animal and spread to humans) that are spread, for example, when humans cut down forests.

In this catastrophic scenario, in around 30 to 50 years we could lose at least half of the Amazon rainforest, which would become a degraded open canopy system (and not a closed system as it is today) extinguishing thousands of species and releasing more than 200 billion tons of CO₂. He also emphasizes the positive change in Brazil's environmental agenda with the election of President Luis Inácio Lula da Silva (Lula) in opposite to the; agenda of the former Brazilian President Jair Bolsonaro, that denied both the existence of the deforestation and the deaths of indigenous peoples by covid-19 and the people that invaded their lands.⁴

Who are destroying the Amazon Forest (rent seekers)? Most of the Amazon rainforest is in Brazil, which together with seven other countries make up the Amazon countries. Almost a half of Brazil's GHG emissions is due to deforestation by a group of mining companies, ranchers, miners, rubber tappers, and companies that informally hire loggers to cut down the forest. These "companies" and illegal groups (rent seekers) have support in Brazil's National Congress and are known as the "Bancada Ruralista" (Ruralist Caucus), that has a strong lobby in Congress and influence on deputies who vote for laws in favour of deforestation or turn a blind eye to environmental crimes.

This group has been especially influential in President Bolsonaro's administration (2018-2022). Indigenous communities and traditional populations residing in the Amazon are the ones that most suffer and that are directly impacted by Amazon Forest deforestation. This question gets more complicated with the "clean energy" demand for electric cars and the exploration of rare earth minerals in "indigenous lands" (that in Brazil belong to the Federal Government). That historically generates the expulsion and killing of indigenous peoples. Rent seeking results in reduced economic growth, land struggles and more

carbon emissions. USP students and all Brazilian society have an important role in not electing these deputies and politicians linked to rent seeking activities in the Amazon region. The Democracy Lab that I headed at USP had an important role in denouncing these activities and promoting this debate with USP community and the readers of all content in our social media platforms.

According to the historian of Science, Lorraine Daston, climate change combined with AI and genetic engineering are one of the most challenging issues of our contemporary society.⁵ In addition, we live in an age of disinformation, fake news, and fast, instant access to news.

This is where the role of science and universities associated with indigenous wisdom comes into its own, to use science and practical solutions to address the climate emergence challenge. Brazil has been formally confirmed as the host of the next COP 30 in the city of Belém and renewed in 2023 its NDCs (Nationally Determined Contributions) to the Paris Agreement. The Brazilian NDCs are one of the most ambitious in the world.

Besides its targets, Brazil is one of the few countries that adopted a commitment for 2025 as well as 2030. Despite this, the Brazilian government has chosen to go even beyond existing laws and policies and commit to reach zero deforestation by 2030, according to the Action Plan for the Prevention and Control of Deforestation in the Legal Amazon.⁶

Oxford students and “uspianos” (USP students) have the same concern: how to tackle this climate emergency with concrete actions. The collective action, bottom-up policies from students and changing cultural perceptions how we live in this Planet can cause a huge impact in addressing the climate emergency. Today many young leaders and students worldwide are connected and participate actively in the climate agenda both locally and globally.

Brazil’s energy matrix (one of the cleanest in the world) favors us. By zeroing out deforestation, Brazil will cut its carbon emissions by approximately half, so the message is clear.

“Zero deforestation, now!” We believe that nature-based solutions, science & technology, and indigenous wisdom (“indigenous technologies”) are the new ways to tackle the climate emergency. What makes a country pursue a sustainable growth pattern is the investment in human capital, technology and preserving the environment. In addition, the preservation of nature has an intrinsic value.

As a University of São Paulo student, my role in climate awareness and action, coupled with my literary endeavor, becomes a testament to the transformative potential em-

bedded in education and environmental consciousness. So, I decided to adventure myself by writing a fiction book (independently produced): ‘*The Savage: From Artificial to Nature Society*’⁷ that explores the paradox and intriguing linkages of the artificial, futurity and nature society. Writing this book was a challenging journey that made me realize that we should listen and give more voice to Brazilian indigenous peoples who say:

“You (non-indigenous people) see nature as something exotic to be preserved, as something exterior to human nature. We indigenous peoples are the nature”.

¹ Elinor Ostrom (2009). ‘A Polycentric Approach for Coping with Climate Change’. World Bank Policy Research Working paper 5095. DOI: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/480171468315567893/a-polycentric-approach-for-coping-with-climate-change>.

² Pedro Jacobi et al (2015). ‘Temas atuais em mudanças climáticas: para os ensinos fundamental e médio’. Portal de Livros Abertos da USP. DOI: <https://www.livrosabertos.abcd.usp.br/portaldelivrosUSP/catalog/book/315>.

³ Paulo Artaxo (2022). ‘Emergência climática: Existem soluções, mas temos de atuar já’. Jornal da USP. DOI: <https://jornal.usp.br/ciencias/emergencia-climatica-solucoes-existem-mas-e-preciso-agir-agora/>.

⁴ Carlos Nobre (2023). ‘Scientist Carlos Nobre on Amazon Summit’. DOI: <https://www.youtube.com/watch?v=BQr2SGjFmng&t=26s>.

⁵ Lorraine Daston (2019). *Against Nature*. MIT Press.

⁶ United Nations (2023). ‘Brazil First NDC 2023 Adjustment’. United Nations Framework on Climate Change. DOI: <https://unfccc.int/gcse?q=Brazil%20First%20NDC%202023%20Adjustment>.

⁷ Ivan Ferraz (2024). *The Savage: From Artificial to Nature Society*. Independent Publishing.

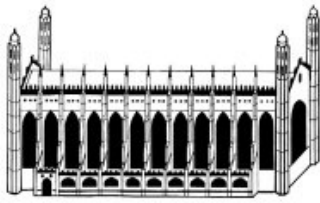
I thank the editors for the invitation to respond to the issues raised in 8th Week Oxford Magazine 2023 from a perspective of a graduate Brazilian student at the University of São Paulo (USP), how I perceive the climate change issue and my activism to address this question combining science, action engagement in my recent independent fiction book, ‘The Savage: From Artificial to Nature Society’.⁷ It’s available online at Amazon (the aim of the book is also for each reader to plant a tree to maintain the book’s carbon neutrality, as I have done).

Not
the
Gazette

NB The Oxford Magazine is not an official publication of the University. It is a forum for the free expression of opinion within the University.

NOTICE

The Editors of the *Oxford Magazine* regret that they cannot publish any material submitted to them anonymously. If the author requests publication on the basis that the author’s name and university address be withheld from the readership, the Editors will consider the reasons given and in their discretion may publish on that basis; otherwise the material will be returned to the author.



Notes from Cambridge

The *Oxford and Cambridge Act* of 1923 still offers both universities protection of their powers to make their own rules. Lord Ernle, a former Fellow of All Souls, was alert to the risk Oxford and Cambridge ran ‘in asking Parliament for State assistance’; he had served on the Royal Commission which considered their then novel request. Speaking in the Lords in 1923 he reported that the Commission had been ‘practically unanimous’ on the importance of leaving ‘the Universities masters in their own house’. Both universities duly made new sets of Statutes for themselves under the Act. Responsibility for the protection of mastery of their ‘houses’ now lies with Congregation in Oxford and the Regent House in Cambridge. The need for their members to make a personal effort to ‘master’ their own internal legislation is proving important in a series of current controversies.

A lengthy process for making rules

Not only Statutes (In Cambridge all requiring the consent of the Privy Council) but also Special Ordinances and Ordinances, require direct Regent House consent by approving a Grace (counterpart of an Oxford Regulation). Cambridge no longer publishes an annual printed volume of its *Statutes and Ordinances* (currently at 1147 pages), though a complete set may be downloaded for easy searching. A two-volume hard copy may be ordered for £18. However it should not be difficult to keep up with changes because the process by which the Regent House amends its Statutes and Ordinances is constitutionally protracted and is recorded step by step in the *Cambridge University Reporter*.

With the exception of the rare publication of a Grace prefaced by a mere Notice, a *Report to the University* is the first step. This can make only ‘Recommendations’, and begins respectfully, with ‘the Council begs leave to report....’ A Discussion must always take place on a *Report*, even if no speakers appear on the day. Any member of the University may speak for up to fifteen minutes, including students, and all who wish to speak must be allowed to do so. Any ‘remarks’ made are published *verbatim* after sending a proof, in the next available *Reporter*. This gives members of the Regent House an opportunity to take a view on any concerns raised.

A Council Notice in response will normally appear in the *Reporter* in due course with, if appropriate, a Grace for the Regent House to approve. Ten days are allowed for twenty-five members of the Regent House to sign a *Non Placet* or propose an Amendment before the Grace is deemed to have been approved by 4.00 on the relevant Friday afternoon. If either happens, a postal ballot follows, with Flysheets with ten signatures circulated and published once the outcome is known. The whole process can take some months, during which members of the Re-

gent House can keep up with the progress of their legislating or pitch in to seek to change its form or direction or block it altogether.

Two extra Cambridge protections

Cambridge has two further provisions for drawing attention to mistakes in following this legislation, neither quite matched in Oxford. In 2023 both have proved to be needed. In its modern form Statute A,IX,1, which dates back to 1926, allows any member of the University to ‘represent to the Vice-Chancellor’ within thirty days ‘that there has been a contravention of the Statutes, Ordinances, or any Order’. The Vice-Chancellor must inquire and declare a view, giving appropriate ‘directions’. Should the Vice-Chancellor decide that there has been no breach or that a breach has had no effect, appeal lies to the Commissary.

The Commissary may also receive requests directly. The powers of the ancient Office of the Commissary were given fuller definition in a series of *Reports and Notices* two decades ago, with a new Review Jurisdiction coming into force from 1 January 2003. The then Commissary created Rules of Procedure. Under Statute A,IX,3, with some matters excluded, the Commissary has ‘full power to determine all questions referred to his or her decision by a member of the University’. He may ‘review, amend, or quash the decision of any University authority on the ground’ he finds to be ‘ultra vires, illegal, irrational, procedurally irregular or incorrect in fact’ and ‘make such order’ as ‘seems to him or her to be justified’.

Controversy I: the powers of the General Board

Unlike Oxford Cambridge has retained its General Board, which, ‘subject to the powers of the Regent House’, remains responsible for the ‘academic and educational policy’ of the University and ‘advises’ the University on questions relating to such policy. It is accountable to the Council (Statute A, V,1). However, it no longer has the powers it formerly enjoyed to make certain Ordinances itself without reference to the Regent House and can now make only ‘Regulations’. What it can and cannot do has now come into question.

On 15 March 2023, but exceptionally without a prefatory *Report*, just an explanatory paragraph headed ‘Examinations’, two Graces were published to permit variation of the normal requirements. The paragraph explained that these were just in case ‘a potential risk of industrial action’ might ‘result in a delay in the publication of lists of candidates who have satisfied the Examiners in particular examinations’. The Council hoped it would ‘not be necessary to use the powers conferred by

these Graces, but in order to provide certainty for students as well as those involved in their assessment' it saw it as 'a reasonable precaution to ensure that such powers are available'. This recommendation therefore carried the authority of the Council, but as it was to turn out, relying on a decision of the General Board. However, a 'notwithstanding' required the *Ordinances for the Dates of Examinations and for the Approval of Class-lists* to be set aside to permit a considerable list of changes.

Members of the Regent House were proved to be keeping up with their *Reporters* on this occasion. The *Reporter* of 27 March announced ballots on both Graces, prompted by 171 Regent House signatures in both cases. The amendment proposed for the first reduced its terms to allowing the Registry, still 'notwithstanding' the Ordinance, merely if necessary to 'start an examination later than as prescribed by Ordinance' and to 'accept a list later than the latest day or time prescribed by Ordinance'.

In the ballot the first Grace was approved as amended. The second was rejected. The Flysheets were duly published. Two supported the Graces. One described the changes as 'a threat to the academic standards of the University' and another supported the Amendment but called for a vote against the second Grace.

One of the Flysheets drew attention to the meeting of the Education Committee of the General Board which had 'considered the proposals now before the Regent House' at its meeting of 8 February 2023. Its Minutes explain that in the face of possible consequences of 'industrial action in February and March' the Committee had 'endorsed the mitigating actions set out in the paper [before it], and agreed that the proposed graces should be put forward for publication and approval'. The Council, meeting on 22 May, discussed the practical implementation of arrangements about examinations in the face of what had become a Marking and Assessment Boycott.

In the *Reporter* of 28 June as a 'Response to the Marking and Assessment Boycott' of UCU, the General Board published a *Notice*. This stated that the General Board has 'agreed to use, on a case-by-case basis and applying specific limited criteria, its existing ability under Regulation 1 of the Ordinance for the Approval of Class-lists', dealing with 'approval of class lists', so as to 'allow the final meeting of the Examiners to take place without all Examiners being present'. Did the General Board have that power? If it had, did the amendment and rejection respectively of the Graces on 'Examinations' now prevent it exercising it?

A 'representation' was made to the Vice-Chancellor on 20 July under Statute A, IX, 1 that by publishing this *Notice* the General Board had 'contravened an Order of the Regent House' which it had made by approving the amended Grace. To this she responded in a letter dated 18 October. She argued that the General Board's 'duty to have regard to any relevant decisions or expressions of opinion of the Regent House' was subject to the Board's 'discretion' and found that there had been no qualifying contravention of the *Statutes and Ordinances* and even if there had been one, it had 'not affected the result'. Appeal to the Commissary is pending because of the recent death of Lord Judge, with no Acting Commissary or new Commissary yet appointed.

Among the important questions this controversy has raised is the force of a decision of the Regent House. The Vice-Chancellor's letter expresses her view that:

'the General Board should have regard to any relevant decisions or expressions of view by the Regent House, even whether it is not formally constrained by them. The weight to be attached to those Regent House decisions might depend, for example, upon how recent they are, and how directly relevant they are to the subject-matter of the General Board's own decision.'

'Expressions' and 'weight' and 'might depend' have considerable constitutional implications. The Vice-Chancellor also argues that where the Ordinances 'specifically confer a discretionary power upon the General Board' it is for the General Board 'to exercise its own judgment as to how that power should or should not be exercised'.

Controversy II: testing the Commissary's jurisdiction

A recent example of direct recourse to the Commissary (in this case about the EJRA) has been widely circulated. In his response, dated 22 June 2023, Lord Judge found that his jurisdiction did not extend to the exact point raised with him. But he took the unusual step of adding a final paragraph, warning the University that unless it took 'immediate action' it might face findings of the 'wrongful dismissal' of those affected by the EJRA. 'Beyond injustice to individuals the reputational damage would indeed be massive', he said.

The change he recommended would have required a Grace to amend Special Ordinance C (ii), 12, which states that:

'all University officers (other than the Chancellor, the High Steward, the Deputy High Steward, the Commissary, and any University officer who is exempted under any Statute or Special Ordinance from the provisions of this section) shall vacate their offices not later than the end of the academic year in which they attain the age of sixtyseven years.'

No Grace was published and about thirty University Officers were dismissed at the age of 67 in September. Litigation has already begun.

Controversy III: are 'Petitions' directions or requests?

In July 2022 a 50-member Regent House Grace 'requested' that the University remove its ties with the fossil fuel industry. There was some dispute as to whether this could be a Grace, since it gave no direction but merely made a request. On 26 October 2022 the Council published a *Report of the Council pursuant to Special Ordinance A (ii) 7 concerning an initiated Grace relating to fossil fuel industry ties*, but it did not address that point, only the need for clarification of the problem. Nevertheless a Grace was found to be needed to validate the decision not to publish the initiated Grace. A ballot was called. The decision not to publish the 50-member 'Grace' succeeded (1032:553).

The Council commissioned 'a study to analyse the likely impact of the proposals on the University's research and teaching activities and on its ability to pursue its mission', to be led by Nigel Topping, the UK's High-Level Climate Action Champion. The *Topping Report* was duly published, making recommendations. Those were received by the Council when it met on 17 July 2023.

The Council next promised to establish a small informal Working Group. This would be asked to consider whether, and if so how, these recommendations might be implemented, including whether any might be capable of acceptance without wider consultation, with the aim of enabling the University to reach a conclusion by the end of the calendar year. It published a Notice about that.

This led to a proposal to add a sixth to Cambridge's five Pro-Vice-Chancellors floated by the Council when it met on 16 October 2023. More than fifty Regent House signatures opposed that suggestion when it was published on 25 October. The resulting Discussion on 7 November was largely critical but the Council published a *Notice* dismissing objections with the Grace on 6 December. Signatures were promptly collected to require a ballot on the Grace. Meanwhile on 13 December the *Reporter* included a Council Notice detailing 'four strands of work proposed by the Working Group'.

A startling U-turn led to the publication of an extraordinary *Reporter* on 15 December. It recorded that the Vice-Chancellor had withdrawn the Grace of 6 December hours before the closing moment when it would have been approved by default at 4.00 that afternoon. In its place was a new Grace, proposing once more the establishment of a sixth Pro-Vice-Chancellor, but limiting the term to six years. On this Grace the Council had approved a ballot on its own account. This was accompanied by the statement that 'the request for a ballot' on the first Grace had been 'circulated'. That arguably misdescribed the status of what was a direction, not a 'request'.

The *Notice* in the *Reporter* of 15 December merely proposed 'the establishment of an office of Pro-Vice-Chancellor with responsibility for sustainability for a maximum of six years'. The Grace proposed no such establishment. A new representation to the Vice-Chancellor under Statute A, IX, 1 now looms in the form of a 'representation' that the publication of Grace 1 of 15th of December 2023 in the *Reporter* (6723) constitutes a breach of the *Statutes and Ordinances* in that there has been an 'act' in the form of the publication of a Grace to 'appoint' a sixth Pro-Vice-Chancellor to an Office which does not exist because no Grace has yet created it. A request to the Vice-Chancellor to withdraw the new Grace awaited a response as communications closed down until the New Year.

The need for general vigilance

These recent Cambridge episodes are fruits of the vigilance of individual members of the Regent House alert to the constitutional routes open to them. They make it clear that it does not take mass indignation to initiate it, though it may prompt action. However, the bringing together on a Regent House 'Petitions Site' of the various ways members of the Regent House may act or raise concerns has tended to blur the character of its decision-making by making it less obvious when binding decisions rather than 'requests' are to be made by the Regent House as the University's governing body. So constitutional knowledge is needed as well as vigilance.

G.R.EVANS

Time to go

The four year old child
of our scholar refugees
is living in the now

All that was lost
in horror and in dread
homeland
birthplace
street, house, bed

only a drift of smoke
behind his mind.

Tired of this tea-party
he packs his bag
with all the things he owns
ball
tractor
book of dinosaurs

announcing firmly
Goodbye, everyone!

Now all must leave.

HERMIONE LEE

Hermione Lee is a literary biographer and critic and Professor Emeritus in the English Faculty. She held the Goldsmiths' Chair of Literature at New College from 1998 to 2008 and was President of Wolfson College from 2008 to 2017.

Into the Wind

He put the glass to his good eye
for the full panoptic
with one foot up on the railing.

All that had been so tilted
and at sea became, at a stroke,
at a glance, steadied
to level his spirit –
the horizon's attenuated length
and the held breadth of it.

So much was given him
by this leaning into the wind
although his weak eye wept
for a buffeted gull, a skiff
gone dangerously far beyond return.

He stepped down and, with both feet
firm on the deck, considered
what he had seen, then
made a note of it

like this. . .

JOHN MOLE

John Mole lives in Hertfordshire where for many years he taught and ran The Mandeville Press with Peter Scupham. He has written poetry for children and adults, literary journalism, and plays regularly as a jazz clarinettist. His most recent collection is *Keeping in Step* (Shoestring Press, 2023).

REVIEWS

The Public Smiling Man

The Letters of Seamus Heaney, edited by Christopher Reid. Faber & Faber, 2023 (£40).



Whenever one comes across a memoir or a collection of letters by a contemporary one looks in the index to see if one is in. I'm not. But I did encounter Seamus Heaney a few times when he was Professor of Poetry at Oxford from 1989 to 1994, and he epitomised charm itself. He had the gift, which some royals have, of making you think you were the most important person in the universe when you met him. Scott Fitzgerald had it too. So I turned to the letters to see more of the figure I had briefly encountered, to fill out the picture.

Heaney has already been revealed in *Stepping Stones* (2009), reviewed in *Oxford Magazine*, No. 285. This was comprised of interviews via correspondence with Dennis O'Driscoll. One keeps hearing about writers as shits, but Heaney was undoubtedly a nice man, mostly. The letters are brilliantly edited by Christopher Reid, who also did the state some service in editing Ted Hughes's letters (2007). It's hard to imagine anyone else doing a better job. When he can't solve something he says it 'resists diagnosis' (p. 251).

Yeats said that there was a distinction between the author who is 'the bundle of accident and incoherence that sits down to breakfast', and the phantasmagoria who creates the work. Heaney cites this memorable image (p. 471, p. 612) and in this collection one glimpses both the social man and the unbreakfasted phantasmagoria. The letters often illustrate the same kind of distinctive Heanyesque phrasing as the poetry, so there is not a *cordon sanitaire* separating the two lives.

Inevitably one compares any collection of a poet's letters with Keats, who sets the bar rather high, because his letters are by far the best not only of any other poet but any other human being. Heaney cannot rise that high, and many of his letters deal with the grind of lecturing, publishing and earning money. They will be an invaluable quarry for biographers in the future, although for reasons of privacy family letters have not been included. They will also be a great resource for historians of the Irish literary scene at the end of the twentieth century. He wrote so many letters that he told one correspondent he could be regarded as

'a man of letters' (p. 86).

Heaney does not spend much time investigating his poetic navel, but one derives a good insight into his tastes and commitments, especially when he writes and criticises his fellow poets. In this sense he reminds one a good deal of Gerard Manley Hopkins, whose letters to Bridges and Dixon are full of careful readings and criticisms. He does not deal much with the Troubles and his place in relation to them. He came under criticism from some quarters for not being more specific and involved, but there is a long letter to Brendan Hamill which spells out where he stood (pp. 98-100). Basically he was suspicious of displaying political commitment in his poetry. He could though be very astute about the contemporary scene, and one sentence sticks out – in the light of the current situation in the Middle East: 'Yet an intense fidelity to one's own tribe can only lead to continuous cycle of revenge – that's what we have anyway, but to embrace it as a deliberate view of life and to celebrate it as the truth goes against the grain of Christian/humanist feelings' (p. 100). One could say the same about the 'grain' of the Muslim world at its best.

There are some excellent descriptive passages, of which my favourite is his first visit in 1970 to California, an enormous pleasure dome beneath the vaulting sky, during the Age of Aquarius. It's a pity there is not room to quote the whole description with 'Hippies, drop-outs, freak-outs, addicts, Black Panthers, Hare Krishna American kids with shaved heads, begging bowls and clothes made out of old lace curtains' (p. 50). He sees 'a damsel with a dulcimer' 'picking a toon' (an allusion of course to Coleridge's 'Kubla Khan'). He could have reservations about his Berkeley students: 'stupid, illiterate, long-haired, hippie, Blake-ridden, Ginsberg-gullible, assholes (assoles or cunts, I hear you cry.)' (p. 61) This scene is more fleshed out in David Lodge's *Changing Places* (1975) when he described Euphoria State University.

Heaney's communicative powers are impressive and unique, and although he is writing prose in the letters the diction is often close to the poetic. At one point he reproduces an Anglo-Saxon line (p. 434): 'Bóats bring óut the beauté in the médium.' Heaney particularly likes compounds, such as 'lad-of-the-chimney-corner status' (p. 155), 'plasm-tender' (p. 324), 'Beckett-bottom linery' (p. 463), 'dead-weight-ish' (p. 470), 'hardy-under-helmet warrior' (p. 470), 'foamy-throated wave-floater' (pp. 470-71), 'warp-spasm' (p. 482), 'ken-

ning-cunning and hoard-hoking' (p. 514), 'seven-league-booted sound' (p. 517), 'pigeon-puffed-chested' (p. 762) and 'that lean, toledo-bendy, cleavery-come-hithery verse line' (p. 485). Some phrasing is intensely Heanyesque such as 'whoosh and juice and jostle' (p. 641). Only Heaney could 'give a chirrup from whinny, hawthorn Wicklow' (p. 588) or describe Anglo-Saxon poetry as 'preremptorily dumped clang-lumps of language' (p. 434). At one point he really gets his eye in, and describes poetic extracts as 'bits sustained on the same lift of excitement, like the webs on the back of a wave.' (p. 325). I am ashamed to say I'd never noticed that phenomenon, always concentrating on the landward side of waves, but as I write this in Collioure those webs are visible outside the window, and are verified, to use one of Heaney's favourite words.



'like the webs on the back of a wave' (p. 325). Photo at Collioure by Bernard Richards.

Another beautiful image is when he writes to our David Constantine that his poetry 'came crowding in like a flock of white gulls after the black effort of the narrative plough' (p. 421). Recovering from a nasty 'turn' he writes, 'I'm back to myself again trying to get the chain on the sprocket' (p. 764) – an expression similar to that in one of his actual poems: 'taking sweet hold like a chain / On every sprocket' ('The Flight Path' in *The Spirit Level*). These images remind one of the brilliant ephemeral images snatched by D.H. Lawrence in his letters. As a Martian poet Christopher Reid would appreciate some of the more outré ones. Often reading the letters, especially the literary ones, I have the impression that they are somehow directly addressed to me.

Some of the letters are verse epistles, mostly in the hospitable Burns stanza. Here is a typical one, from his letter to Blake Morrison (later printed by Field Day):

But we have all been here before,
Those politics-by-metaphor
Make nothing happen – though I'm
sure

The more we balk
At new tropes for old tales, the more
Tongue-tied our talk. (p. 223)

Politics making 'nothing happen' is a quotation from Auden's 'In Memory of W.B. Yeats'.

What one has to recognise is that to some degree Heaney's poetic oeuvre constitutes an autobiography, composed of many actual incidents. The best verse letter is to Monica and Tomas Tranströmer, describing an evening encounter with a fox in a wood near the sea in 1991 (p. 365):

A young fox
Is suddenly beside us on the rocks!
.....his just being there
Beside us, and not showing any fear
Of us or of the world felt heaven-sent.
It verified a word like *innocent*.

One may compare this with a poem in *Seeing Things* (1991):

Travelling south at dawn, going full out
Through high-up stone-wall country,
the rocks still
cold,
Rainwater gleaming here and there
ahead,

I took a turn and met the fox stock-still,
Face-to-face in the middle of the road.
Wildness tore through me as he dipped
and wheeled

In a level-running tawny breakaway.
O neat head, fabled brush and astonished eye
My blue Volkswagen flared into with
morning!

This is a different fox, and it reminds us that fox encounters often seem laden with significance. One thinks of Ted Hughes's 'The Thought Fox' and Prince Harry's fox encounter in *Spare*. The car pops up in a letter of 2010 when he refers to 'the years of the blue Volkswagen' (p. 748). Somewhat surprisingly Reid does not gloss any of this. There is no shortage of references to the surrounding culture. *The Riders of the Range*, appears in 'A Sofa in the Forties' in *The Spirit Level*. He mentions the programme in a letter (p. 391). Those radio images were stronger than the television ones. Basil Brush even puts in an appearance (p. 112).

More than many poets Heaney builds on specific events, so it is not surprising that many poets write, wanting further elucidation. Usually he was admirably forthcoming and generous to these poets. He was worried that his *Stepping Stones* might interfere with his privacy too much, and certainly wanted to nip in the bud the proposed film about his early life, with

actors representing him and his circle. (p. 478) He was also somewhat alarmed at Michael Parker's project to flesh out details of his life and environments. A letter to him betrays real anxiety about the invasion of privacy when he worries about 'the cruel knowledge that I had led the robber to the hidden treasure and even explicated its value' (pp. 296-7). When someone wanted to publish one of his postcards as a blurb all that he could say was, 'Jaysus' (p. 390). Even his family was affected by his renown, and he notes that his brother 'found himself with a Japanese professor in Toner's Moss when he should have been with his cows in the milking parlour.' (p. 448) Still, Heaney could have been said to have invaded his own privacy by writing poems so close to actual experience. And this applies to many other poets too.

One is always happy to find indiscreet revelations and tart criticisms in private correspondence, and there is no shortage in the letters. He wanted to 'take Donoghue and wring rhetoric's neck' (p. 118). He was great friends with Helen Vendler, yet he regarded her rather as Henry James regarded Edith Wharton, as an angel of devastation (p. 323). A distinguished writer is inevitably exposed to hostile reviews and hostile interviews. When he met Desmond Fennell, who had reviewed him unfavourably, he wrote to Paul Durcan, 'I lost my cool, told him he had no authority to patronize me and that his tone was that of a schoolboy debater's' (p. 363). Cosmo Landesman interviewed him, and this generated a bit of bile: 'There's such a headmaster/head-boy aspect to me. I just couldn't handle it. Like being treated familiarly by a shit you would normally cross the road to avoid' (p. 526). Heaney complains about Robert Potts's 'shitty little piece' on Ted Hughes's *Collected Poems* (p. 602), adding, 'but then, again, thinking of Yeats, these are eunuchs gazing on Don Juan's "sinewy thigh"' – an allusion to 'On Those That Hated "The Playboy of the Western World"'.

Heaney was a witty man. This might seem besides the point in the context of a phrase he uttered in my presence about his work principally dealing with the 'neolithic constants' but it is relevant, because deep involvement with words is bound to make one think about them and see them in various lights. One recalls that Keats, although a major Bard with a big B, is often extremely amusing in his letters. There are some laugh-out-loud moments in the Heaney *Letters*. Heaney respected Yeats of course, but since he had his virility rejuvenated by the monkey-glands operation, he referred to him as 'the Gland Old Man' (p. 725). Heaney was doubtless plastered on many occasions, but literally so when he was in hospital with an injured leg (p. 481). He recalls a visit to Mark Schorer's mansion in California: 'It has a little railway up the side of the slope, and it gave me great pleasure to elevate the hungover remnants, electrically, towards whiskey and vodka'

(p. 144). I suppose it's witty of Seamus Deane to describe Philoctetes as 'Pus in Boots', although Heaney thinks 'My Right Foot' would be preferable – a reference to Christy Brown's *My Left Foot* (1954) (p. 342).

There is a laugh-out-loud moment when he describes the mail boxes at Adams House, Harvard. His was at floor-level: 'so that embarrassment of failure in the area of manipulation is equalled only by the Falstaffian scrambles and flushes and maladjustments of the body as it attempts to get down that low' (p. 392). He is witty at Philip Hobsbaum's expense: 'the bottle-bottom glare of Hobsbaum' (p. 309). I am amused at Alvarez, Hughes and Empson at the Robert Lowell memorial service being cast as 'the hounds of heaven' (p. 153) – a reference to Francis Thompson's grandiloquent poem. The best laugh-out-loud moment in the whole collection is when Samuel Beckett thinks an allusion is being made to an old Dublin drinking crony of his: "'Don't tell me Louis Golding won the Nobel Prize!"' (p. 672)

Heaney seemed to have the whole of English poetry running through his head. A sort of physiological Google. Reid identifies a good number of allusions both signalled and unsignalled, but a few slip through the net though and here is a just a sample from my list of about fifty. This is a tricky business, since Reid does not want the reader to feel insulted, but perhaps it's best to err on the side of insult, since the literary nous of the contemporary reader is not what it was. Are 'tide in the affairs' (from *Julius Caesar*, p. 154) and 'I...wear the bottoms of my trousers rolled' (from Eliot's 'Prufrock', p. 772) too well known to list? Some are more obscure perhaps. 'Our poetry is a gum which oozes' (p. 731) is from Shakespeare's least-known play *Timon of Athens* and 'Tough reasonableness and much lyric grace' (p. 655) is adapted from T.S. Eliot's Essay on Andrew Marvell. Most of them are from Hopkins and Yeats. The following allusion might need glossing: 'Hair-raising, in the good Housman sense' (p. 387). In 'The Name and Nature of Poetry' (9 May 1933) he says, 'Experience has taught me, when I am shaving of a morning, to keep watch over my thoughts, because, if a line of poetry strays into my memory, my skin bristles so that the razor ceases to act.'

In addition there are modified allusions, which might be harder to detect. So that Heaney rewrites Joyce's 'silence, exile and cunning' in *The Portrait of the Artist as a Young Man* as "'indolence, silence and sunning'" (p. 670) and 'teach the bondsman how to blaze' (p. 309) is an oblique transformation of Auden's 'Teach the freeman how to praise.' ('In Memory of W.B. Yeats'). I hope that a certain number of readers will know that 'splendour falls on college walls' (p. 549) is a rewrite of a Tennyson line where it's 'castle walls'. This review is titled 'A smiling public man', taken from 'Among Schoolchildren', but at one point he revises

it as 'unsmiling public man' (p. 751).

Heaney assumed that his correspondents, who were mostly literary, would recognise his allusions. There is one allusion to the 'bag apron' (p. 90) which I am able to explain, since it came up in a seminar he generously gave to my Brasenose undergraduates. He did not want me to print a transcript of the event, and I have respected his wishes, but I think I am allowed to record this snippet.

I remember hearing about an exchange between Patrick Kavanagh and John Montague of the next generation, and Montague wrote a poem which is very well known in Ireland called 'Like Dolmens round my childhood the old people'. It imagines the elderly figures in his childhood being like standing stones, like Rollright Stones, and there is something immemorial about their presence, and he describes them as ordinary members of the countryside, and one of them wears a garment described as 'a bag apron'. It is simply a bag worn as an apron tied with bind or twine or something, an ad hoc garment, and Patrick Kavanagh in his succinct way praised Montague's poem simply by passing him in the street one day and saying, 'Grrr, yer got in the bag apron!' I mean it's true, getting something in is quite wonderful.

That 'Grrr' is *Beanospeak*, and Heaney writes, 'GRRR, as they used to say in the *Beano*' (p. 350) and later cites 'Grr, as Lord Snooty's Gang would have said' (p. 610). Another letter mentions Bernard O'Donoghue taking him to the Rollright Stones, just north of Chipping Norton (p. 406, p. 410). He comes back later to 'Like Dolmens...' (p. 729).

Three allusions defeat Reid. Let me have a crack at solving them. On p. 777 Heaney mentions Hardy looking up a word, and finding 'it occurred in his own work.' Or perhaps I should say he found that it occurred only in his own work.' Reid provides no note on this, but I suspect the word in question is 'stillicide' which is in *OED*:

*They've a way of whispering to me – fellow-wight who yet abide
In the muted, measured note
Of a ripple under archways, or a lone cave's stillicide. ('Friends Beyond')*

There is also a 1626 quotation from Bacon. I wonder which dictionary Hardy used? *OED* is 1933 – so too late for him. William Little's *Shorter Oxford Dictionary* is also 1933. Could this be a garbled legend? Nabokov was fascinated by this word. An intriguing moment is on p. 768 when Heaney received an account of Iain Crichton Smith and 'the Brillo Pads'. Reid says that 'the story has been lost to memory'. Let me hazard a guess, that he mistook them for tea-bags. Easily done, especially in dim light. 'No toothbrush chorus' defeats Reid (p. 611). Is it possible that Heaney is remembering Thomas Beecham's report of Dame Ethel Smyth, who conducted 'March

of the Women' to her fellow Suffragettes with her toothbrush when in Holloway prison?

Living in the modern age has its consolations. One of them is that the voices of writers are available, especially interesting when they read their own work – 'Dylan [Thomas] at full volume' as 'The Bookcase' has it (*Electric Light*). So many of us will have Heaney's voice echoing in our inner ear as we read the letters. When he lectured here as Professor of Poetry we were privileged to hear that living voice. He was proposed for the post by Bernard O'Donoghue, who was formerly the poetry editor of this magazine. I recorded the lectures, and shall leave them to some archive; the Bodleian perhaps? One of his lectures was interrupted by a burly rival poet who said that Heaney was 'a disgrace'; 'it's Oxford University PLC.' He wanted to distribute his poems from a bulging haversack, but I dragged him out, and told him he would have to market his wares outside in the street. Afterwards in the Eastgate Hotel Heaney said to me, 'Any time Bernard you want a reference as a night-club bouncer I'd be happy to give it.' This reminds me of Heaney saying that his friend Owen Kelley was 'cut out to be' a retiarius (a 'net-wielder' in the Roman arena) (p. 154).

Heaney gave a memorable performance in the Sheldonian Theatre with Ted Hughes in 1994. He mentions it (p. 410). Ted introduced a poem about salmon spawning in a long lecture before reading the poem, 'An October Salmon', and said that was what the poem was about. Laughter.

Inevitably in Oxford any occasion is interrupted by noises off as hobbledheoys in the street yell and scream. Heaney said, 'They are always like that when they can't get in.' Alas, I was not allowed to record this event, so it has disappeared into the outer darkness. When he was Professor in Oxford Heaney was very generous with his time and gave surgeries for aspiring poets. One can't imagine John Keble or Matthew Arnold doing such a thing. He told my pupil, the poet-ette (Heaney's term, p. 331) Alexandra Allan: 'read Elizabeth Bishop: she's your man.'

Fame has its consolations, but it also has its perils, as I mentioned in my review of Hermione Lee's biography of Tom Stoppard (*Oxford Magazine*, No. 447). One of the main ones perennially recorded in his letters is his guilt at not answering letters. The life of a celebrity seems to be one round of joy, and at one point he is flying at 1290 MPH (Concorde surely?) consuming 'caviar and crayfish' (p. 345). Some distance from the lad in the byre at dawn with a hurricane lamp. He meets the Empress of Japan, and when he is in hospital Bill Clinton drops in to see him. In 2004 he was named as 'among the top 50 sex gods in the world' by the *Erotic Review* (p. 612), along with the Dalai Lama and Germaine Greer, but one wonders if that gave him much pleasure.

There were endless parties and events. However, he refers to 'jostling in the odious pretence that official receptions and enforced gregariousness are enjoyable ways of spending an evening' (p. 244). He was buffeted by buffets on countless occasions, and notes 'the usual scrum and surge towards the smoked salmon' (p. 764). He says at one point. 'My God, I have fizzled out my life with finger food' (p. 404). He had to draw the line at being ferried to poetry readings by helicopter, (p. 243) with, to add insult to injury, the dire prospect of the trip being written up by Clive James (p. 247).

There is the constant necessity in public venues, the 'podiums and senatorial poms' (p. 399), as Larkin noted, to pretend to be one's self (p. 703). Which self would that be? Literary celebrities are perhaps different from film celebrities. When film celebrities start to age, especially female ones, they can retire into decent obscurity. As Kilroy says in Tennessee Williams's *Camino Real*, 'It shows you are getting old when you remember Jean Harlow.' A taxi-driver is likely to say to her, 'Weren't you once Jean Harlow?' No taxi-driver is likely to say, 'Weren't you once Seamus Heaney?'

Critics were iffy at what seemed to be a plutocratic life-style, but he defends himself in relation to the unsympathetic reviewer Rand Brandes: 'what appears as "stardom" and "globetrotting" is often simply the result of a decent sense of obligation to a person running a conference, arranging a lecture, whatever' (p. 375). Still, if it weren't for all the travelling we wouldn't have the image of him sitting at 'a rustic table / Under magnolias in South Carolina' ('A Brigid's Girdle' in *The Spirit Level*) or 'Mount Parnassus placid on the skyline' ('Sonnets from Helas', *Electric Light*) or 'the great re-echoing gloom/ Of distant Compostela' ('The Little Canticles of Asturias', *Electric Light*). There was also the consolation of 'the buzz from the duty free' as 'The Flight Path' has it in *The Spirit Level*. He was much more comfortable with 'abroad' than Philip Larkin.

He did manage to find short recuperative bouts at 'the castle of peace' – Glanmore. At the back of his mind must often have been Yeats's lines in 'The Fascination of What's Difficult': 'I swear before the dawn comes round again/ I'll find the stable and pull out the bolt.' At one moment Heaney recalls Sir Walter Raleigh's 'The Passionate Man's Pilgrimage' (p. 459):

Give me my scallop shell of quiet,
My staff of faith to walk upon,
My scrip of joy, immortal diet,
My bottle of salvation,
My gown of glory, hope's true gage,
And thus I'll take my pilgrimage.

John Wain used to tell me he'd leave his 'charred remains' to duck out of an obligation.

All the letters are good, but the best, I

think, are to Ted Hughes, whom he worshipped. He recognises his greatness, and his commitment to the central value of poetry. In these letters one catches glimpses of Heaney's phantasmagoric presence.

Heaney, like everyone of his age, moved forward into an unfamiliar and not always hospitable world. In remote times cars came with a starting-handle (my Riley could deliver a wrist-wrenching kick-back). Heaney used the device as an image for getting a poem going in a session with students, but of course they had no idea what he was talking about (p. 685) 'since they had never "swung" a motor in their preppy lives.' Most of them wouldn't understand 'jump-lead joy' either (p. 409), or be capable of bump-starting a car – which Heaney's family was. As for double-declutching..... But more significant than

such details is the large cultural shift, which has left older people high and dry. His most heartfelt complaint is in a 1992 letter to Ted Hughes: 'But I am more alive than before to the immense rage which man-speak, or even men speaking, now produces. The historical tide is running against almost every anchor I can throw towards what I took to be the holding places.' (p. 389) He wasn't keen on the advent of the new fashions in criticism, and speaks of 'the theory dreck' of 'some young Turks and Turkettes' at a Yeats event (p. 350). Conferences can be the bane of the literary life: he refers to 'the tedious Longley-infested John Hewitt Summer School.' (p. 320) He is worried that academe has abandoned its responsibilities to the culture' (p. 409) (although I haven't).

Heaney was not enthusiastic about the new technologies of transmission, but

eventually he received faxes, wrote on the computer and even sent emails, although he writes to Wendy Cope and Lachlan Mackinnon, 'I have no email and don't "do" it' (p. 755) – and yet this note was sent by e-mail (probably via a friend?). He found the 'blank gaze' of the computer intimidating (p. 567) and said that the machine 'collapses archaic man' (p. 435). He was from the age, a better age, when pen and paper were used, and had an image of the ghost of Ted Hughes 'shaking his head at this desertion of the scribal tool' (p. 567). Still his very last message was via email. It was to his wife, Marie, as he was going into the operating theatre, and read 'Noli timere' – 'Don't be afraid' (p. 799).

BERNARD RICHARDS

Oxford Housing Costs

Sir – May I thank Dr Simon Cowan for his kind reply (*Oxford Magazine*, No. 259, 8th Week, MT 2023) correcting my errors in my decline in pay. For January 2005 it was still £1,356.18 and December 2023 £2,094.83 (gross). Assuming December 2023's R.P.I. and C.P.I. from January 2005 (Index=100) will be the same as October's, 200 and 169 respectively, my pay has declined by 22.8% R.P.I. and 8.6% C.P.I., if I understand Simon's calculations correctly.

At least my mistake has furnished interested lecturers with a useful example of lay misunderstanding of statistics. While reassuring to be corrected, it still feels as if my pay has fallen by 43% as first thought. I appreciate C.P.I. is now the preferred measure of inflation, but with housing costs being such a large proportion of Oxford workers' expenditure and worry, I suggest it is more realistic. R.P.I. is retained to calculate my annual railway season ticket price rise, and perhaps the Parliamentary Pension Scheme as well. There might be other examples.

The point of a national prices index is just that – to give a nation-wide indication of changes in living costs. However, may I suggest an 'Oxford Prices Index' including housing to calculate the Oxford Living wage directly would be of great interest to many.

Yours Sincerely,
NEIL IDEN.
Oxford

The Two Cultures

Sir, – On 21 November Brian Cox tweeted

"The more I hear from the Covid enquiry, the more I think that the PM and the majority of ministers did not have the intellectual tools necessary to understand scientific advice and there-

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fore to be able to weigh it successfully alongside economics, social science etc. In my view this can be traced to educational failure - they weren't taught or didn't learn the basics of science alongside their chosen disciplines. This also applies the other way round to scientists of course. Breadth of knowledge is key, as well as specialisation / expertise, and I don't think our system delivered that in the 80s and 90s when I (and they) went to University - whether it does that today is an open question. I think we need to be producing more polymaths."

In his editorial in Eighth Week, MT, *Oxford Magazine*, Ben Bollig echoed some of this:

"One could suggest that a lack of scientific thinking in the wider population is a part of the problem, as is more than apparent in the ongoing Covid-19 enquiry. We cannot expect everyone to become an expert – but much more can be desired from our political classes and future leaders. Oxford plays a vital role in shaping these. What can, and what should, a university do? ... Humanities graduates dominate politics, the civil service, journalism, and other key fields. Oxford could show the way to bring together the 'two cultures' for the benefit of future generations."

There is one degree at Oxford that is already doing this – Human Sciences. It is the only degree at Oxford that takes teaching from all four of Oxford's academic Divisions. As far as interdisciplinarity and over-

coming the Two Cultures are concerned, no other Oxford degree even comes close.

Sadly, only nine colleges currently admit for the degree, despite there being over six applicants for every place, and in spite of the fact that it equips its graduates to go on to specialise in almost any field they choose. One can only speculate how different Britain's recent political history might have been had Human Sciences been as popular as PPE.

Yours Sincerely,
DAVID GELLNER (PPE, 1976)
All Souls

Accessing the Magazine

Sir – I am a long-term addict of the *Oxford Magazine*. However, your addiction to the very latest IT technology in its online-only SSO 'publication' leaves me repeatedly, in each academic year, panting behind.

I stand like a child on fireworks night, gaping at the new things you can do, and at the new devices you invent to stop unauthorized spies reading OM articles. The trouble is, I am a busy man, learned at school to read and write – including in Latin and some other languages – but find the benefits of modern IT, though in certain particulars substantial, annihilated by their need for what their enthusiasts conceive as perpetual improvement. So I am not going to waste any more time trying to push past these obstacles to my reading the OM.

Yours Sincerely,
ALEXANDER MURRAY
University College

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